

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1955-MWD-E TCEQ ID: RN103016408 CASE NO.: 35054
RESPONDENT NAME: City of Needville

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Needville Wastewater Treatment Facility, 14206 Church Street south of Buffalo Creek and south of Needville, approximately 0.4 mile east and 0.8 mile south of the intersection of State Highway 36 and Farm-to-Market Road 1236, near Needville, Fort Bend County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 5, 2008. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Delbert Wendt, Mayor, City of Needville, P.O. Box 527, Needville, Texas 77461
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 24, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 19, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limitations for Total Suspended Solids, Total Ammonia Nitrogen, and Flow [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010343001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$5,100</p> <p>Total Deferred: \$1,020 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,080</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010343001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): TPDES Permit No. WQ0010343001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

DATES	Assigned	26-Nov-2007
	PCW	6-Dec-2007
	Screening	6-Dec-2007
	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Needville
Reg. Ent. Ref. No.	RN103016408
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION	
Enf./Case ID No.	35054
Docket No.	2007-1955-MWD-E
Media Program(s)	Water Quality
Multi-Media	
Admin. Penalty \$	Limit Minimum \$0 Maximum \$10,000
No. of Violations	1
Order Type	1660
Enf. Coordinator	J. Craig Fleming
EC's Team	Enforcement Team 3

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 75% Enhancement **Subtotals 2, 3, & 7** \$2,250

Notes An enhancement is recommended for having 13 NOVs for self-reported effluent violations, and two NOVs with same/similar violations.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$158 **0% Enhancement*** **Subtotal 6** \$0
Approx. Cost of Compliance \$2,000 **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$5,250

OTHER FACTORS AS JUSTICE MAY REQUIRE

-3% **Adjustment** -\$150

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended reduction so that self-reported effluent violations will not overly-impact the penalty amount.

Final Penalty Amount \$5,100

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,100

DEFERRAL

20% Reduction **Adjustment** \$1,020

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,080

Screening Date 6-Dec-2007

Docket No. 2007-1955-MWD-E

PCW

Respondent City of Needville

Policy Revision 2 (September 2002)

Case ID No. 35054

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN103016408

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	15	75%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 75%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended for having 13 NOVs for self-reported effluent violations, and two NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

Screening Date 6-Dec-2007		Docket No. 2007-1955-MWD-E		PCW	
Respondent City of Needville		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 35054		<small>PCW Revision November 6, 2007</small>			
Reg. Ent. Reference No. RN103016408					
Media [Statute] Water Quality					
Enf. Coordinator J. Craig Fleming					
Violation Number	<input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0010343001, Effluent Limitations and Monitoring Requirements No. 1				
Violation Description	Failed to comply with the permitted effluent limitations, as documented in a record review conducted on October 24, 2007. See attached table.				
Base Penalty					<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	x	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="10%"/>

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0%"/>

A simplified model was used to evaluate Total Ammonia Nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and Total Suspended Solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment	<input type="text" value="\$9,000"/>
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Violation Events

Number of Violation Events <input type="text" value="3"/>	<input type="text" value="182"/>	Number of violation days
-----------------------------------------------------------	----------------------------------	--------------------------

<small>mark only one with an x</small>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	x	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Violation Base Penalty

Three quarterly events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$158"/>	Violation Final Penalty Total <input type="text" value="\$5,100"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,100"/>	

Economic Benefit Worksheet

Respondent City of Needville
Case ID No. 35054
Reg. Ent. Reference No. RN103016408
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Jan-2007	1-Aug-2008	1.6	\$158	n/a	\$158

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date required is the date the noncompliances started. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$2,000

TOTAL

\$158

Effluent Limit Violation Table	
Respondent	City of Needville
ID Number(s)	TPDES Permit No. WQ0010343001
Docket Number	2007-1955-MWD-E
Enf. Coordinator	J. Craig Fleming
Corresponds to Violation Number:	1

ID Number(s) TPDES Permit No. WQ0010343001

Enf. Coordinator J. Craig Fleming

Corresponds to Violation Number:

Permit Limit

[illegible]

Name	Abbreviation
Compliant	C
Total Suspended Solids	TSS
Pounds per Day	lbs/day
Milligram per Liter	mg/L
Million Gallons per day	MGD

Compliance History

Customer/Respondent/Owner-Operator:	CN600341358	City of Needville	Classification: AVERAGE	Rating: 0.66
Regulated Entity:	RN103016408	CITY OF NEEDVILLE	Classification: AVERAGE	Site Rating: 0.66
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT PERMIT PERMIT LICENSE	WQ0010343001 TPDES0027634 TX0027634 WQ0010343001	
Location:	LOCATED AT 14206 CHURCH ST. SOUTH OF BUFFALO CREEK AND SOUTH OF THE CITY OF NEEDVILLE, APPROX. 0.4 MILE EAST AND 0.8 MILE SOUTH OF THE INTERSECTION OF STATE HWY. 36 AND FM 1236 IN FORT BEND CO., TX.		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	December 03, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 03, 2002 to December 03, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	J. Craig Fleming		Phone:	(512) 239-5806

Site Compliance History Components

- | | |
|----------------------------------------------------------------------------------------------|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/05/2002	(175918)
2	12/13/2002	(175922)
3	01/23/2003	(175926)
4	02/21/2003	(175884)
5	03/27/2003	(175887)
6	04/10/2003	(175892)
7	05/08/2003	(35193)
8	05/27/2003	(175896)
9	06/16/2003	(175901)
10	08/06/2003	(302934)
11	08/29/2003	(302936)
12	09/26/2003	(302938)
13	10/07/2003	(251073)
14	10/30/2003	(302940)
15	12/01/2003	(302942)
16	12/18/2003	(302944)
17	01/22/2004	(302945)
18	02/17/2004	(302924)
19	03/25/2004	(302927)

20	04/29/2004	(302928)
21	05/20/2004	(302930)
22	06/21/2004	(302932)
23	07/29/2004	(355108)
24	08/11/2004	(355109)
25	09/22/2004	(355110)
26	10/20/2004	(355111)
27	12/06/2004	(355112)
28	12/20/2004	(383539)
29	01/21/2005	(383540)
30	02/17/2005	(383537)
31	03/21/2005	(383538)
32	04/26/2005	(430233)
33	06/02/2005	(430234)
34	06/07/2005	(379183)
35	06/30/2005	(430235)
36	08/05/2005	(442365)
37	08/25/2005	(442366)
38	10/03/2005	(471377)
39	10/28/2005	(442367)
40	11/29/2005	(471378)
41	12/22/2005	(471379)
42	01/30/2006	(471380)
43	02/21/2006	(471376)
44	03/27/2006	(500081)
45	04/28/2006	(500082)
46	05/30/2006	(500083)
47	06/22/2006	(500084)
48	07/26/2006	(522191)
49	08/10/2006	(522192)
50	09/19/2006	(522193)
51	10/30/2006	(546866)
52	11/22/2006	(546867)
53	12/21/2006	(546868)
54	01/22/2007	(546869)
55	02/28/2007	(579204)
56	03/27/2007	(579205)
57	04/17/2007	(579206)
58	05/07/2007	(558869)
59	05/18/2007	(579207)
60	06/18/2007	(579208)
61	07/24/2007	(579209)
62	08/08/2007	(607944)
63	09/27/2007	(607945)
64	11/19/2007	(595076)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	03/31/2003	(175892)	
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/06/2003	(35193)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to comply with the two-hour peak flow limit of 833 gpm (1.19 MGD).		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to submit the 2002 annual sludge report.		
Date	06/30/2004	(355108)	
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		

Date 11/30/2004 (383539)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 02/28/2005 (383538)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2005 (430234)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/07/2005 (379183)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure to initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities when the facility reached 75 percent of the permitted daily average flow for three consecutive months.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with the two-hour peak flow limit of 833 gpm.
 Date: 06/30/2005 (442365)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2007 (579204)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2007 (579205)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2007 (579206)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2007 (579208)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2007 (579209)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2007 (607944)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2007 (607945)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NEEDVILLE
RN103016408**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1955-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Needville ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility at 14206 Church Street south of Buffalo Creek and south of Needville, approximately 0.4 mile east and 0.8 mile south of the intersection of State Highway 36 and Farm-to-Market Road 1236 near Needville, Fort Bend County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 24, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand One Hundred Dollars (\$5,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Thousand Eighty Dollars (\$4,080) of the administrative penalty and One Thousand Twenty Dollars (\$1,020) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010343001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 24, 2007, as indicated in the table below:

	TSS Daily Average in lbs/day (loading)	TSS Daily Average in mg/L (concentration)	TSS Daily Average Single Grab	Total Ammonia Nitrogen Daily Average in mg/L (concentration)	Flow in Conduit or Thru Treatment Plant in MGD
<i>Month/Year</i>	50 lbs/day	15 mg/L	60 mg/L	3.0 mg/L	0.40 MGD
Jan-07	76.32	19.5	67	C	C
Feb-07	60.21	C	C	C	C
Mar-07	C	C	C	4.27	C
May-07	C	C	C	4.91	C
Jun-07	C	C	C	4.21	C
Jul-07	88.39	C	C	C	0.467

Name	Abbreviation
Compliant	C
Total Suspended Solids	TSS
Pounds per Day	lbs/day
Milligram per Liter	mg/L
Million Gallons per Day	MGD

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Needville, Docket No. 2007-1955-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010343001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Siler
For the Executive Director

4/6/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Delbert Wendt
Signature

2-14-08
Date

Delbert Wendt
Name (Printed or typed)
Authorized Representative of
City of Needville

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

80-41-2

Smith

Robert C. Smith